Crl. A. 1383/97

XII-188/(Jail)
C.J.P.R.—5,000-9-81

CF0000061457

APPEAL OF PRISONER

2 Division Be...

No. 61 Name सतनी बाई

Father's name पियारी

Residence कोट थाना सीतापुर Age 30 वर्ष

Sentenced to 302 IPC आजीवन on 4/6/97

Under section 302 आजीवन by प्रथम अपर सत्र न्या०

it is explained to the prisoner that if he states or wishes to be represented by a legal practitioner the Appelate Court will not proceed with the base for seven days unless the legal practitioner appears. If the legal practitioner does not appear with in seven days he may not be heard at all If the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

1 Date of Application for copy of Judgement ——

2 Date of which copy received — 4/6/97

3 Date on which Appeal sent — 6/6/97

4 Whether the prisoner wishes to be represented or not – Yes/No.,

No. 61 Name सतनी बाई w/o पियारी

Continued in 4/6/97 Jail जिला जेल अम्बिकापुर

No. 1693 dated 6/6/97 198-97

Forwarded to the CHIEF JUDICIAL MAGISTRATE अम्बिकापुर

to gather with a copy of judgement or order passed in the case for favour of transmission to the proper Appilliate Court.

सत्रन निर्णय प्रति 3/- (तीन पेपर) अग्रेषित

अधीक्षक

Superintendent-Central / Distt. / Sub-Jail

जिला जेल अम्बिकापुर (सरगुजा)

Date of receipt in C. J. M.'S Office 28.6.97

Date of receipt of record to accompany 28.6.97

Memo of Appeal of the Appeliate Court. High Court of M.P. Jabalpur

No. 927 Dated 28-6-198 97

Forwarded to the High Court of M.P. Jabalpur

C.J.Magistrate 28/6/97

Date of receipt in Appliate Court

(P.T.O.)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.A. 1383/97 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: HON. SHRI L.C. BHADOO &
HON. SHRI DHIRENDRA MISHRA,JJ

Criminal Appeal No. 1383 of 1997

Appellant — **Satni Bai**

Vs

Respondent — **State of M.P.**

Shri S.K.Chandel, learned counsel for the appellant.

Shri U.N.S.Deo, learned G.A. with Shri D.K.Gwalre, learned Dy.G.A. for the State.

ORAL JUDGMENT
(21/03/2006)

Per L.C.Bhadoo, J

By this appeal under Section 374(2) of the Code of Criminal Procedure the accused/appellant has questioned the legality and correctness of the judgment of conviction and order of sentence dated 04.06.1997 passed by First Additional Sessions Judge, Ambikapur in S.T.No.366/96 whereby the learned First Additional Sessions Judge after holding the accused/appellant guilty for the commission of offence under Sections 302 of the Indian Penal Code for committing the murder of her son Kannilal sentenced her to undergo imprisonment for life.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

93

मामला क्रमांक Cr.A./383/97 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

2. Case of the prosecution, in brief, is that PW-1 Heera lodged the report P-1 in the Police Station- Sitapur to the effect that he along with his elder brother Naihar Sai had gone to the forest in the morning to collect wood and at about 1.00 p.m. they returned to his house and they were sitting in his house. At that time he heard the cries of his daughter Sumitra and the daughter of his younger brother Anita and they were saying that "aunt has murdered". On hearing the cries they came out of the house and went towards the side from where the sound of cries was heard and saw that Kannilal – son of Piyari was lying in the pool of blood in the courtyard of the house of Naihar Sai. There were injuries on the neck and head of Kannilal and he was writhing in pain and at that place Satni Bai – the wife of Piyari was standing holding bloodstained axe. After some time Kannilal died. On asking by him his wife Balo snatched the axe from Satni and handed over the same to him. Satni had murdered his son after assaulting with axe on his neck. Receiving this report, Station House Officer P.S.- Sitapur left for the scene of occurrence and after giving notice P-5 to the Panchas he prepared the Panchanama P-6 of the body of Kannilal. He took into possession the bloodstained soil and plain soil from the place of occurrence under P-7. He also took into possession the weapon of offence – axe on production by Heera under P-8. Sari of accused Satni Bai stained with blood was taken into possession under P-9. The site plan P-11 was prepared by the Patwari. The body of Kannilal was sent for postmortem examination to the Community Health Centre, Sitapur under P-13 where Dr. K.K.Dutta conducted postmortem on the body of Kannilal and prepared the postmortem report P-17. The investigating officer also prepared the site plan P-16. The bloodstained articles were sent for examination to the Forensic Science Laboratory, Sagar from where report

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

P-18 was received and according to the report blood was found on the sari of the accused and the weapon of offence – axe. After completion of the investigation charge sheet against the accused was filed in the Court of Judicial Magistrate First Class, Ambikapur who in turn committed the case to the Session Judge, Ambikapur from where the learned First Additional Sessions Judge, Ambikapur received the case on transfer for trial.

3. The prosecution in order to establish the charge against the accused/appellant examined eight witnesses. On the other hand, statement of the accused was recorded under Section 313 of the Cr.P.C. in which she denied the prosecution evidence appearing against her and stated that she is innocent and has been falsely implicated in the crime. She has further stated that she is the mother of deceased Kannilal and why she should commit the murder of her own son. Learned Additional Sessions Judge after conclusion of the trial, hearing the counsel for the respective parties convicted and sentenced the accused/appellant as mentioned in paragraph -1 of this judgment.

4. We have heard Shri S.K.Chandel, learned counsel appearing on behalf of the accused/appellant and Shri U.N.S.Deo, learned G.A. with Shri D.K.Gwalre, learned Dy.G.A. on behalf of the State/respondent.

5. Homicidal death of Kannilal is not in dispute.

6. As far as involvement of the accused/appellant Satni Bai in committing the murder of her son Kannilal is concerned, the sole eyewitness Sumitra (PW-4) has turned hostile, therefore, the whole prosecution case rests on the circumstantial evidence. In order to base the conviction on the circumstantial evidence as per the settled law, the

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.A./383/97 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Court is required to ascertain from the circumstances that such evidence must satisfy the following tests;

1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;

3) the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and

4) the circumstantial evidence in order to sustain the conviction must be complete and incapable of explanation of any other hypothesis that that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.

7. Now we shall proceed to examine the evidence in order to find out whether the prosecution has been able to establish the involvement of the accused in the crime in question based on the circumstantial evidence.

8. The prosecution has tried to establish the crime against the accused/appellant on the following circumstances;

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

16

मामला क्रमांक Cr. A. 1383/97 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

1) That the accused was seen at the place of occurrence holding bloodstained axe in her hand near the dead body of deceased Kannilal and she also tried to run away from the place of occurrence.

2) That the axe which was snatched from the accused by Balo Bai and the sari of the accused were found stained with blood.

9. As far as the first circumstance is concerned, PW-1 Heeralal who is none else than brother-in-law of the accused and uncle of the deceased i.e. younger brother of father of the deceased has stated that on the fateful day when he returned from the forest at about 2.00 p.m. he heard the cries of Sumitra and came out of the house, went towards the courtyard of Naihar Sai and saw that son of Satni was lying dead in the courtyard. There were injuries on his neck and blood was oozing out of the injuries. Accused Satni was standing there holding axe in her hand and he lodged the report P-1. This witness has been declared hostile by the prosecution. The prosecution was allowed to cross-examine this witness on which he stated that the statement of portion A' to 'A' of the report P-3 that the girls were crying that the aunt has murdered and Satni was running away with the axe, the axe was snatched from her and she was tied, was informed by him while lodging the report P-3. The sari of Satni was stained with blood. In the cross-examination he has stated that the place of occurrence was the house of Naihar Sai who is the brother of this witness. His wife Balo Bai scolded Satni Bai on which she tried to run away but before that Satni Bai was sitting by the side of her son Kannilal. The above evidence of Heeralal is corroborated by the evidence of PW-2 Balo Bai who has also stated that

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.A.1383/97 सन् 200 17

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

on hearing the scream of Sumitra she came out and enquired from Sumitra as to what has happened on which Sumitra asked her to look at other side whereupon she saw that the son of Satni was lying dead and blood was oozing out. The accused Sathi was there and she was holding the wooden portion of the axe in her hand whereas the iron part of the axe was lying on the ground. When Satni tried to run away, her husband (Heeralal) asked her to catch Satni on which she caught hold of Satni and took her inside the house and locked the house. In the cross-examination she has stated that Sumitra and Anita had gone to fetch grass and on return they saw that Kannilal was lying dead and when she went there Satni was sitting by the side of Kannilal and was weeping. In the cross-examination of these witnesses the defence has not been able to elicit any circumstance which shows that the accused was not present when Heera and Balo Bai went to the scene of occurrence, therefore, the presence of Satni Bai at the place of occurrence near the dead body of her son Kannilal holding bloodstained axe in her hand is established. Thus from the evidence of these two witnesses it has also been established that accused Satni tried to run away from the place of occurrence and she was caught by Balo Bai.

10. So far as the second circumstance is concerned, the bloodstained axe and bloodstained sari of accused Satni Bai were taken into possession by the investigating officer as has been mentioned in the seizure memo and the same were sent to the F.S.L., Sagar for examination from where the report P-18 was received in which it has been mentioned that both the articles sari and axe were found bloodstained. Therefore, as per the above discussion it is established that the accused was standing holding bloodstained axe in her hand near the dead body of

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक CRA: 1383/97 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

her son Kannilal, her sari and axe on examination by the F.S.L. were found bloodstained, the accused tried to run away from the place of occurrence and no explanation has come forward that when she was standing near the dead body of Kannilal how the crime was happened. Even in the cross-examination of the witnesses who are none else than the close relatives of the accused, the defence has not been able to bring forward any circumstance that there was any possibility of committing the crime in question by any other person. Moreover, in the cross-examination of the above two witnesses nothing has been suggested that on account of any animosity they have tried to falsely implicate the accused in such a heinous crime in which her son was murdered. Therefore, all the above circumstances are suggestive of the fact that the crime in question was committed by accused/appellant Satni Bai and there is no possibility that any third person has committed the crime.

11. In view of the foregoing reasons, we do not find any illegality or infirmity in the judgment of the trial Court convicting and sentencing the accused/appellant under Section 302 of the IPC. The appeal is devoid of merits and the same is liable to be dismissed. It is accordingly dismissed.

Sd/-
L.C. Bhadoo
Judge

Sd/-
DHIRENDRA MISHRA
Judge